

**REMARKS/ARGUMENTS**

Prior to entry of this Amendment, claims 12-15 and 22-25 were pending in this application. Claims 12 and 22 have been amended, claims 26-29 have been added, and no claims have been canceled herein. Therefore, claims 12-15 and 22-29 are now pending. Applicant respectfully requests reconsideration of these claims for at least the reasons presented below.

**35 U.S.C. § 112 Rejection**

The final Office Action rejected claims 24 and 25 under 35 U.S.C. § 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Amendments were made in the Amendment and Response filed August 2, 2007 that are thought to overcome the reasons for the rejection. The Advisory Action indicates that these amendments were in fact entered but does not mention the current status of this rejection. Therefore, the Applicants respectfully request an indication of the status of this rejection.

**35 U.S.C. § 102 Rejection, Alferness**

Claims 12-14, 22, and 23 have been rejected under 35 U.S.C. § 102(e) as being anticipated by U. S. Patent No. 7,078,607 to Anton Perry Alferness (hereinafter "Alferness"). The Applicant respectfully submits the following arguments pointing out significant differences between claims 12-15 and 22-29 submitted by the Applicants and Alferness.

"A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference." MPEP 2131 citing *Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053

(Fed. Cir. 1987). Applicants respectfully argue that Alferness fails to disclose each and every claimed element. For example, Alferness fails to disclose, either expressly or inherently, a storage medium with a number of audio tracks, each audio track having stored therein a complete version of a song.

As noted previously, Alferness is directed to "music playback software, and, more specifically, to dynamically changing music and sound compositions." (Col. 1, lines 13-15) Under Alferness, "a script tool is used to create scripts that are used to play back a song. The scripts are user definable and may, for example, define a specific order to play the components, define the components that may be played next to each other during the playback." (Col. 1, lines 60-65) However, Alferness does not disclose, expressly or inherently, a storage medium having audio tracks, each audio track having stored therein a complete version of a song. Rather, Alferness discloses storing individual "sound elements" such as vocals, guitar, bass, drums, etc. (Col. 2, lines 55-58) These elements are mixed according to the controlling script when a selected song is played back. (Col. 3, lines 34-46, col. 6, lines 13-34, col. 6, line 61 - col. 7, line 7)

That is, Alferness does not store **complete** songs in **each of** the individual tracks. Instead, Alferness stores individual sound elements in each track, e.g., a vocal track, a guitar track, a drums track, etc. **Collectively**, these tracks may represent a complete song. However, applying these teachings to the pending claims misses a recitation of the pending claims. That is, the pending claims recite **storing a complete version of a song in each track**. Alferness on the other hand teaches storing individual sound elements of a song in each track, but not storing a complete song in each track. Furthermore, under Alferness, it is not until the tracks are played back under control of the script that these sound elements are mixed to produce the complete song. That is, Alferness does not disclose storing a complete, **previously mixed** song in an audio track. In fact, the mixing of Alferness occurs during playback.

Claim 12, upon which claims 13-15 depend, recites in part a "storage medium comprising: N number of audio tracks, each audio track having stored therein a complete, previously mixed song; [and] V versions of at least one of the N audio tracks." Alferness does not disclose, expressly or inherently, a storage medium comprising a number of audio tracks with each audio track having stored therein a complete, premixed song. Rather, Alferness discloses storing individual "sound elements" such as vocals, guitar, bass, drums, etc. in each track and mixing these elements according to the controlling script when a selected song is played back. For at least these reasons, claims 12-15 should be allowed.

Claim 22, upon which claims 23-25 depend, recites in part "recording a base version of a complete song; mixing a first version of the base version; mixing a second version of the base version; mixing a third version of the base version; encoding the base version on a first track of a storage medium; encoding the first version on a second track of the storage medium; encoding the second version on a third track of the storage medium; encoding the third version on a fourth track of the storage medium." Alferness does not disclose, expressly or inherently, encoding mixed versions of a complete song on individual tracks of a storage medium. Rather, Alferness discloses storing individual "sound elements" such as vocals, guitar, bass, drums, etc. and mixing these elements according to the controlling script when a selected song is played back. For at least these reasons, claims 22-25 should be allowed.

Claim 26, upon which claims 27-29 depend, recites in part "mixing a first complete version of a media work; mixing a second complete version of the media work; recording the mixed first complete version of the media work on a first track of a storage medium; recording the mixed second complete version of the media work in a second track of the storage medium." Alferness does not disclose, expressly or inherently, recording mixed, complete versions of a media work on individual tracks of a storage medium. Rather, Alferness discloses storing individual "sound elements" such as vocals, guitar, bass, drums, etc. and mixing

these elements according to the controlling script when a selected song is played back. For at least these reasons, claims 26-29 should be allowed.

**35 U.S.C. § 103 Rejection, Alferness**

Claims 24 and 25 have been rejected under 35 U.S.C. § 103(a) as being unpatentable over Alferness. The Applicants respectfully requests withdrawal of the rejection and allowance of the claims for at least the reason that claims 24 and 25 both depend upon claim 22 that is thought to be allowable as described in detail above.

**CONCLUSION**

In view of the foregoing, Applicants believe all claims now pending in this Application are in condition for allowance and an action to that end is respectfully requested.

If the Examiner believes a telephone conference would expedite prosecution of this application, please telephone the undersigned at 303-571-4000.

Respectfully submitted,

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